

CHAPTER 11

INSURANCE

SENATE BILL 04-106

BY SENATOR(S) Teck, Chlouber, and May R.;
also REPRESENTATIVE(S) Stengel, Frangas, Hall, Hoppe, Jahn, King, McGihon, Paccione, Spradley, White, Williams S., and
Williams T.

AN ACT

**CONCERNING A REPEAL OF THE SECOND POOL OF PREMIUM TAX CREDITS AVAILABLE UNDER THE
"CERTIFIED CAPITAL COMPANY ACT", AND, IN CONNECTION THEREWITH, CREATING TAX CREDITS
FOR CONTRIBUTIONS TO A VENTURE CAPITAL PROGRAM.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. The general assembly hereby:

(1) Finds that the legislative audit committee of the general assembly evaluated the implementation of the "Certified Capital Company Act" pursuant to Senate Joint Resolution 03-050;

(2) Determines that, pursuant to the investigation, the "Certified Capital Company Act" is not efficiently and effectively achieving the economic development purposes for which it was enacted; and

(3) Declares that:

(a) The "Certified Capital Company Act" should be modified and limited to further the purposes for which it was enacted;

(b) Those purposes are best served by repealing the allocation of premium tax credits under the "Certified Capital Company Act" for investment of certified capital to be made after January 31, 2004, and by making venture capital premium tax credits available for contributions to the venture capital funds created pursuant to this act.

SECTION 2. 10-3.5-103 (10) and (14), Colorado Revised Statutes, are amended

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

to read:

10-3.5-103. Definitions. As used in this article, unless the context otherwise requires:

(10) "Premium tax credit allocation claim" means a claim for allocation of premium tax credits prepared and executed by a certified investor on a form provided by the office and filed by a certified capital company with the office. The form shall indicate whether the premium tax credit allocation claim is for an allocation of premium tax credits pursuant to section 10-3.5-106 (2) (a) (I) OR (2) (a) (II) ~~(2) (b) (I), or (2) (b) (II)~~; and shall include an affidavit of the certified investor pursuant to which such certified investor shall become legally bound and irrevocably committed to make an investment of certified capital in a certified capital company in the amount allocated, even if such amount is less than the amount of the claim, subject only to the receipt of an allocation pursuant to section 10-3.5-106.

(14) "Qualified investment" means the investment of cash by a certified capital company in a qualified business or qualified rural business for the purchase of any debt, debt participation, equity, or hybrid security, including a debt instrument or security that has the characteristics of debt but provides for conversion into equity or equity participation instruments, including, but not limited to, options or warrants; except that, with respect to all certified capital invested pursuant to an allocation of tax credits pursuant to section 10-3.5-106 (2) (a) (I), ~~or (2) (b) (I)~~; the investment shall be made in a qualified rural business.

SECTION 3. 10-3.5-104 (2) (d) and (5), Colorado Revised Statutes, are amended to read:

10-3.5-104. Certification - fees. (2) An applicant shall:

(d) Have at least two principals or at least two persons employed to manage the funds who each have at least two years of money management experience in the venture capital industry; except that an applicant that seeks to be certified with respect to premium tax credits to be allocated pursuant to section 10-3.5-106 (2) (a) (I) ~~or (2) (b) (I)~~ need only have at least two principals or at least two persons employed to manage the funds who each have at least two years of experience in either the venture capital or investment banking industry.

(5) The office shall stamp applications for certification with the date and time of receipt. Within thirty days after receipt of an application, the office shall issue the certification or refuse the certification and communicate in detail to the applicant the grounds for the refusal, including suggestions for the removal of such grounds. The office shall review and approve or reject applications in the order submitted, treating all applications received on the same day as being received simultaneously; except that an application that is incomplete or for which additional information is requested by the office shall be treated as having been received on the date originally submitted only if the applicant submits the additional information within fifteen days after the office's request. The deadline for review may be extended by the office an additional ten days. The certification issued by the office shall indicate whether the certification is applicable only to credits to be allocated pursuant to section 10-3.5-106 (2) (a) (I). ~~or (2) (b) (I).~~

SECTION 4. 10-3.5-105 (1), Colorado Revised Statutes, is amended to read:

10-3.5-105. Premium tax credit. (1) Any certified investor that makes an investment of certified capital pursuant to an allocation of premium tax credits as set forth in section 10-3.5-106 shall, during the year of investment, earn a vested credit against state premium tax liability equal to one hundred percent of the certified investor's investment of certified capital. With respect to investments of certified capital made subsequent to January 31, 2002, but prior to January 31, 2004, a certified investor shall be entitled to take up to ten percent of the vested premium tax credit each year beginning in tax year 2003 and continuing thereafter for ten years or, if the credit is carried forward pursuant to subsection (2) of this section, until the credit is fully utilized. ~~With respect to investments of certified capital made subsequent to January 31, 2004, a certified investor shall be entitled to take up to ten percent of the vested premium tax credit each year beginning in tax year 2005 and continuing thereafter for ten years or, if the credit is carried forward pursuant to subsection (2) of this section, until the credit is fully utilized.~~

SECTION 5. 10-3.5-106 (1), (2) (b), (3), (6), and (7), Colorado Revised Statutes, are amended to read:

10-3.5-106. Aggregate limitations on credits. (1) (a) The aggregate amount of certified capital for which premium tax credits are allowed for all certified investors under this article shall not exceed the amount that would entitle all certified investors in certified capital companies to take aggregate credits of ten million dollars per year for ten years beginning in tax year 2003, which certified capital may be invested in certified capital companies no earlier than January 31, 2002. ~~plus an additional amount that would entitle all certified investors in certified capital companies to take aggregate credits of ten million dollars per year for ten years beginning in tax year 2005, which certified capital may be invested in certified capital companies no earlier than January 31, 2004.~~ A certified capital company, on an aggregate basis together with its affiliates, shall not file premium tax credit allocation claims in excess of the maximum amount of certified capital for which premium tax credits may be allowed at the time of filing as provided in this subsection (1); except that a certified capital company whose certification is applicable only to credits to be allocated pursuant to subparagraph (I) of paragraph (a) ~~or subparagraph (I) of paragraph (b)~~ of subsection (2) of this section shall not file premium tax credit allocation claims in excess of the maximum amount of certified capital for which premium tax credits may be allowed pursuant to such subparagraph (I) ~~of paragraph (a) or subparagraph (I) of paragraph (b) of subsection (2) of this section~~ at the time of filing.

(b) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH (b) AND PURSUANT TO RULES PROMULGATED BY THE OFFICE, ONE OR MORE CERTIFIED INVESTORS MAY CLAIM UP TO TEN MILLION DOLLARS OF STATE PREMIUM TAX CREDITS ANNUALLY FOR TEN YEARS BEGINNING IN TAX YEAR 2005 FOR INVESTMENTS OCCURRING ON OR AFTER APRIL 1, 2004, OF CERTIFIED CAPITAL IN ONE OR MORE CERTIFIED CAPITAL COMPANIES TO BE USED FOR QUALIFIED INVESTMENTS. WITH REGARD TO SUCH INVESTMENTS:

(A) TWENTY-FIVE PERCENT OF CERTIFIED CAPITAL FOR WHICH PREMIUM TAX CREDITS ARE ALLOWED SHALL BE ALLOCATED TO CERTIFIED INVESTORS IN CERTIFIED CAPITAL COMPANIES FOR INVESTMENTS IN QUALIFIED RURAL BUSINESSES IN THE ORDER IN WHICH PREMIUM TAX CREDIT ALLOCATION CLAIMS THAT REQUEST AN

ALLOCATION OF PREMIUM TAX CREDITS UNDER THIS SUB-SUBPARAGRAPH (A) ARE FILED WITH THE OFFICE BY CERTIFIED CAPITAL COMPANIES ON BEHALF OF THEIR CERTIFIED INVESTORS; AND

(B) AFTER THE CERTIFIED CAPITAL HAS BEEN ALLOCATED PURSUANT TO SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (I), SEVENTY-FIVE PERCENT OF CERTIFIED CAPITAL FOR WHICH PREMIUM TAX CREDITS ARE ALLOWED SHALL BE ALLOCATED TO CERTIFIED INVESTORS IN CERTIFIED CAPITAL COMPANIES IN THE ORDER IN WHICH PREMIUM TAX CREDIT ALLOCATION CLAIMS THAT REQUEST AN ALLOCATION OF PREMIUM TAX CREDITS UNDER THIS SUB-SUBPARAGRAPH (B) ARE FILED WITH THE OFFICE BY CERTIFIED CAPITAL COMPANIES ON BEHALF OF THEIR CERTIFIED INVESTORS.

(II) NOTWITHSTANDING ANY OTHER REQUIREMENT OF THIS ARTICLE, OF THE TEN MILLION DOLLARS OF TAX CREDITS THAT WOULD OTHERWISE BE CLAIMED ANNUALLY FOR TEN YEARS BEGINNING IN TAX YEAR 2005 PURSUANT TO THIS SUBSECTION (1), FIVE MILLION DOLLARS SHALL NOT BE CLAIMED PURSUANT TO THIS SUBSECTION (1) AND AN EQUIVALENT AMOUNT OF CREDITS MAY INSTEAD BE CLAIMED ANNUALLY PURSUANT TO PART 2 OF ARTICLE 46 OF TITLE 24, C.R.S.; EXCEPT THAT, IF H.B. 04-1206 IS ENACTED AT THE SECOND REGULAR SESSION OF THE SIXTY-FOURTH GENERAL ASSEMBLY, BECOMES LAW, AND IS SUBSEQUENTLY DECLARED TO BE UNCONSTITUTIONAL BY A FINAL JUDGMENT THAT INVALIDATES THE TAX CREDITS ENACTED BY SUCH BILL, THE REMAINING FIVE MILLION DOLLARS OF TAX CREDITS THAT WOULD OTHERWISE BE CLAIMED PURSUANT TO THIS SUBSECTION (1) ANNUALLY FOR EACH OF THE REMAINING CALENDAR YEARS THROUGH 2014 SHALL NOT BE CLAIMED PURSUANT TO THIS SUBSECTION (1), AND A TOTAL OF TEN MILLION DOLLARS OF TAX CREDITS MAY INSTEAD BE CLAIMED ANNUALLY FOR EACH OF THE REMAINING CALENDAR YEARS THROUGH 2014 PURSUANT TO PART 2 OF ARTICLE 46 OF TITLE 24, C.R.S.

~~(2) (b) With regard to investments to be made in certified capital companies after January 31, 2004:~~

~~(f) Twenty-five million dollars of certified capital for which premium tax credits are allowed shall be allocated to certified investors in certified capital companies in the order in which premium tax credit allocation claims that request an allocation of premium tax credits under this subparagraph (f) are filed with the office by certified capital companies on behalf of their certified investors; and~~

~~(H) After all twenty-five million dollars have been allocated pursuant to subparagraph (f) of this paragraph (b), seventy-five million dollars of certified capital for which premium tax credits are allowed shall be allocated to certified investors in certified capital companies in the order in which premium tax credit allocation claims that request an allocation of premium tax credits under this subparagraph (H) are filed with the office by certified capital companies on behalf of their certified investors.~~

(3) If two or more certified capital companies file premium tax credit allocation claims seeking an allocation of premium tax credits pursuant to the same subparagraph of the same paragraph PARAGRAPH (a) of subsection (2) of this section with the office on behalf of their respective certified investors on the same day and the sum of such premium tax credit allocation claims exceeds, in the aggregate, the maximum aggregate amount available under such particular subparagraph at the time

of filing, the capital for which premium tax credits are allowed under such particular subparagraph shall be allocated among the certified investors on a pro rata basis. The pro rata allocation for any one certified investor shall bear the same relation to the maximum aggregate amount available under such particular subparagraph at the time of filing, as that certified investor's premium tax credit allocation claim under such particular subparagraph bears to the total of all premium tax credit allocation claims seeking an allocation of premium tax credits pursuant to the same subparagraph of ~~the same paragraph~~ PARAGRAPH (a) of subsection (2) of this section filed on behalf of all certified investors on the same day.

(6) The maximum amount of premium tax credit allocation claims that any one certified investor and its affiliates may file in one or more certified capital companies shall not exceed fifteen percent of the maximum aggregate amount available under subsection (1) of this section at the time of such filing; except that a certified investor that files a premium tax credit allocation claim for an investment in a certified capital company whose certification is applicable only to credits to be allocated pursuant to subparagraph (I) of paragraph (a) ~~or subparagraph (I) of paragraph (b)~~ of subsection (2) of this section shall not file, on an aggregate basis with its affiliates, premium tax credit allocation claims in excess of the maximum amount of certified capital for which premium tax credits may be allowed pursuant to such ~~sections~~ SUBPARAGRAPH (I) at the time of filing.

(7) Unless its certification indicates otherwise, a certified capital company may file premium tax credit allocation claims on behalf of its certified investors pursuant to either or both of the subparagraphs of ~~paragraphs (a) and (b)~~ PARAGRAPH (a) of subsection (2) of this section. If the certified investors of a certified capital company are allocated premium tax credits pursuant to both subparagraphs of ~~paragraphs (a) and (b)~~ PARAGRAPH (a) of subsection (2) of this section, the requirements of this act shall apply to the certified capital invested pursuant to each such allocation on a separate and independent basis.

SECTION 6. 10-3.5-107 (2), Colorado Revised Statutes, is amended to read:

10-3.5-107. Requirements for continuance of certification - fees. (2) The aggregate cumulative amount of all qualified investments made by the certified capital company from an allocation date shall be considered in the calculation of the percentage requirements under this article. For purposes of satisfying the percentage requirements of subsection (1) of this section only, a certified capital company that has raised certified capital pursuant to an allocation under section 10-3.5-106 (2) (a) (II) ~~or (2) (b) (II)~~ shall be deemed to have invested two dollars for every dollar actually invested in a qualified rural business or qualified business that has its principal business operations located in a distressed urban community from certified capital raised under such section. Any proceeds received from a qualified investment may be invested in another qualified investment and shall count toward any requirement in this article with respect to investments of certified capital.

SECTION 7. 24-77-102 (15) (b), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

24-77-102. Definitions - repeal. As used in this article, unless the context otherwise requires:

(15) (b) "Special purpose authority" includes, but is not limited to:

(XIV) THE VENTURE CAPITAL AUTHORITY CREATED IN SECTION 24-46-202.

SECTION 8. Article 46 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART to read:

PART 2
VENTURE CAPITAL PROGRAM

24-46-201. Definitions. AS USED IN THIS PART 2, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "AUTHORITY" MEANS THE VENTURE CAPITAL AUTHORITY CREATED IN SECTION 24-46-202.

(2) "CERTIFIED CAPITAL" MEANS AN AMOUNT OF CASH THAT IS CONTRIBUTED BY A QUALIFIED TAXPAYER TO THE AUTHORITY THAT IS DEPOSITED IN A VENTURE CAPITAL FUND.

(3) (a) "DISTRESSED URBAN COMMUNITY" MEANS AN AREA WITHIN A CITY OR CITY AND COUNTY:

(I) WHERE A QUALIFIED BUSINESS WOULD NOT BE A QUALIFIED RURAL BUSINESS;
AND

(II) THAT HAS BEEN DESIGNATED AS AN ENTERPRISE ZONE PURSUANT TO ARTICLE 30 OF TITLE 39, C.R.S.

(b) IF A DISTRESSED URBAN COMMUNITY'S ENTERPRISE ZONE STATUS IS TERMINATED PURSUANT TO ARTICLE 30 OF TITLE 39, C.R.S., A CERTIFIED INVESTMENT SHALL NEVERTHELESS CONTINUE TO BE CONSIDERED AN INVESTMENT IN A QUALIFIED BUSINESS THAT HAS ITS PRINCIPAL BUSINESS OPERATION LOCATED IN A DISTRESSED URBAN COMMUNITY IF THE LOCATION WAS IN AN ENTERPRISE ZONE AT THE TIME OF THE FIRST QUALIFIED INVESTMENT BY THE FUND MANAGER IN THE BUSINESS.

(4) "ENTERPRISE FUND" MEANS THE ENTERPRISE FUND CREATED IN SECTION 24-46-202.

(5) "FUND MANAGER" MEANS A PARTNERSHIP, CORPORATION, TRUST, OR LIMITED LIABILITY COMPANY THAT INVESTS CASH IN QUALIFIED BUSINESSES OR QUALIFIED RURAL BUSINESSES AND IS SELECTED THROUGH THE AUTHORITY'S COMPETITIVE SELECTION PROCESS TO ESTABLISH AND MANAGE ONE OR MORE VENTURE CAPITAL FUNDS AS DESCRIBED IN THIS PART 2. A FUND MANAGER SHALL HAVE AT LEAST TWO YEARS OF MONEY MANAGEMENT EXPERIENCE IN THE VENTURE CAPITAL INDUSTRY OR THE EQUIVALENT AS DETERMINED BY THE AUTHORITY.

(6) "PREMIUM TAX LIABILITY" MEANS THE LIABILITY IMPOSED BY SECTION 10-3-209 OR 10-6-128, C.R.S., OR, IN THE CASE OF A REPEAL OR REDUCTION BY THE STATE OF THE LIABILITY IMPOSED BY SECTION 10-3-209 OR 10-6-128, C.R.S., ANY OTHER TAX LIABILITY IMPOSED UPON AN INSURANCE COMPANY BY THE STATE.

(7) "PROCEEDS" MEANS ANY REVENUES ARISING FROM THE USE OF CERTIFIED CAPITAL, INCLUDING, BUT NOT LIMITED TO, INCOME GENERATED FROM QUALIFIED INVESTMENTS AND INCOME GENERATED FROM ALL CERTIFIED CAPITAL NOT CURRENTLY INVESTED IN QUALIFIED INVESTMENTS.

(8) (a) "QUALIFIED BUSINESS" MEANS A BUSINESS THAT, SUBJECT TO PARAGRAPHS (b) AND (c) OF THIS SUBSECTION (8), MEETS ALL OF THE FOLLOWING CRITERIA AS OF THE TIME OF A FUND MANAGER'S FIRST QUALIFIED INVESTMENT IN THE BUSINESS AND AS OTHERWISE DETERMINED BY THE AUTHORITY:

(I) THE BUSINESS:

(A) IS HEADQUARTERED IN THIS STATE AND ITS PRINCIPAL BUSINESS OPERATIONS ARE LOCATED IN THIS STATE; OR

(B) HAS ENTERED INTO A CONTRACT WITH A FUND MANAGER TO COMPLY, WITHIN NINE MONTHS AFTER FINALIZATION OF THE CONTRACT, WITH SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (I) AND THE CONTRACT CONTAINS ENFORCEABLE PROVISIONS REQUIRING A RETURN OF ANY INVESTMENT OF CERTIFIED CAPITAL AND ANY OTHER REVENUES REQUIRED TO BE PAID IN THE EVENT OF NONCOMPLIANCE WITH THIS SUBSECTION (8) OR A CONTRACT PROVISION;

(II) IS A SMALL BUSINESS;

(III) IS NOT A BUSINESS PREDOMINANTLY ENGAGED IN:

(A) PROFESSIONAL SERVICES PROVIDED BY ACCOUNTANTS, DOCTORS, OR LAWYERS;

(B) BANKING; LENDING; REAL ESTATE DEVELOPMENT; INSURANCE; OIL AND GAS EXPLORATION; DIRECT GAMBLING ACTIVITIES, WHICH DO NOT INCLUDE ANCILLARY GAMBLING BUSINESSES SUCH AS MANUFACTURERS OF GAMING EQUIPMENT AND OTHERS AS DEFINED BY THE AUTHORITY; OR

(C) MAKING LOANS TO OR INVESTING IN A FUND MANAGER OR AFFILIATES OF A FUND MANAGER;

(IV) DOES NOT RECEIVE AN INVESTMENT FROM A VENTURE CAPITAL FUND THAT EXCEEDS FIFTEEN PERCENT OF THE VENTURE CAPITAL FUND'S AGGREGATE TOTAL OF CERTIFIED CAPITAL; AND

(V) MAINTAINS ITS BUSINESS IN THIS STATE FOR AT LEAST FIVE YEARS AFTER FIRST RECEIVING AN INVESTMENT OF CERTIFIED CAPITAL AND HAS ENTERED INTO A CONTRACT WITH A FUND MANAGER TO COMPLY WITH THIS REQUIREMENT. THE CONTRACT SHALL CONTAIN ENFORCEABLE PROVISIONS REQUIRING A RETURN OF ANY INVESTMENT OF CERTIFIED CAPITAL AND ANY OTHER REVENUES REQUIRED TO BE PAID IN THE EVENT OF NONCOMPLIANCE WITH THIS SUBPARAGRAPH (V) OR A CONTRACT PROVISION.

(b) IF A BUSINESS MEETS SOME, BUT NOT ALL, OF THE CRITERIA SET FORTH IN PARAGRAPH (a) OF THIS SUBSECTION (8), THE BUSINESS MAY NEVERTHELESS BE

DEEMED TO BE A QUALIFIED BUSINESS IF THE AUTHORITY DETERMINES THAT THE INVESTMENT OF CERTIFIED CAPITAL IN THE BUSINESS PROPOSED BY A FUND MANAGER PURSUANT TO THIS PART 2 WILL FURTHER THE ECONOMIC DEVELOPMENT OF THE STATE.

(c) ANY BUSINESS THAT IS CLASSIFIED AS A QUALIFIED BUSINESS AT THE TIME OF THE FIRST QUALIFIED INVESTMENT IN THE BUSINESS BY A FUND MANAGER SHALL REMAIN CLASSIFIED AS A QUALIFIED BUSINESS, AND MAY RECEIVE CONTINUING QUALIFIED INVESTMENTS FROM A VENTURE CAPITAL FUND. THE CONTINUING INVESTMENTS SHALL BE QUALIFIED INVESTMENTS EVEN THOUGH THE BUSINESS MAY NOT MEET THE DEFINITION OF A QUALIFIED BUSINESS AT THE TIME OF THE CONTINUING INVESTMENTS; EXCEPT THAT A QUALIFIED BUSINESS SHALL COMPLY WITH SUBPARAGRAPH (V) OF PARAGRAPH (a) OF THIS SUBSECTION (8) FOR AT LEAST FIVE YEARS AFTER AN INITIAL QUALIFIED INVESTMENT TO REMAIN A QUALIFIED BUSINESS AND TO RECEIVE CONTINUING QUALIFIED INVESTMENTS.

(9) "QUALIFIED DISTRIBUTION" MEANS ANY DISTRIBUTION OUT OF CERTIFIED CAPITAL FROM A VENTURE CAPITAL FUND FOR EXPENSES RELATED TO MANAGING AND OPERATING THE FUND. QUALIFIED DISTRIBUTIONS SHALL NOT EXCEED TWO AND ONE-HALF PERCENT ANNUALLY OF THE TOTAL AMOUNT OF CERTIFIED CAPITAL ALLOCATED TO EACH VENTURE CAPITAL FUND UNLESS AUTHORIZED BY THE AUTHORITY AFTER A REVIEW OF EXTRAORDINARY ITEMS. "QUALIFIED DISTRIBUTION" DOES NOT INCLUDE THE USE OF CERTIFIED CAPITAL FOR LITIGATION CHALLENGING THE VALIDITY, IMPLEMENTATION, OR EFFECT OF THIS PART 2 OR ARTICLE 3.5 OF TITLE 10, C.R.S., LOBBYING, OR GOVERNMENTAL RELATIONS.

(10) (a) "QUALIFIED INVESTMENT" MEANS, SUBJECT TO PARAGRAPH (b) OF THIS SUBSECTION (10), THE INVESTMENT OF CERTIFIED CAPITAL BY A FUND MANAGER IN A QUALIFIED BUSINESS OR QUALIFIED RURAL BUSINESS, AS APPLICABLE, FOR THE PURCHASE OF ANY DEBT, DEBT PARTICIPATION, EQUITY, OR HYBRID SECURITY, INCLUDING A DEBT INSTRUMENT OR SECURITY THAT HAS THE CHARACTERISTICS OF DEBT BUT PROVIDES FOR CONVERSION INTO EQUITY OR EQUITY PARTICIPATION INSTRUMENTS, INCLUDING, BUT NOT LIMITED TO, OPTIONS OR WARRANTS; EXCEPT THAT A FUND MANAGER SHALL USE CERTIFIED CAPITAL ONLY TO MAKE SEED AND EARLY-STAGE INVESTMENTS IN QUALIFIED BUSINESSES OR QUALIFIED RURAL BUSINESSES, AS APPLICABLE; EXCEPT THAT THE AUTHORITY MAY ALLOW A QUALIFIED INVESTMENT IN A QUALIFIED RURAL BUSINESS THAT IS NOT A SEED OR EARLY-STAGE INVESTMENT IF THE INVESTMENT IS APPROPRIATE AND LATER-STAGE CAPITAL INVESTMENTS ARE NOT OTHERWISE AVAILABLE TO THE QUALIFIED RURAL BUSINESS. AN INVESTMENT SHALL BE DEEMED TO BE A QUALIFIED INVESTMENT ONLY IF THE QUALIFIED BUSINESS OR QUALIFIED RURAL BUSINESS IN WHICH THE INVESTMENT IS MADE EXPENDS THE QUALIFIED INVESTMENT WITHIN COLORADO; EXCEPT THAT THIS LIMITATION SHALL NOT BE DEEMED TO PRECLUDE THE PURCHASE OF SERVICES OR GOODS FROM OUTSIDE OF COLORADO IF SUCH SERVICES ARE PERFORMED AND SUCH GOODS ARE USED IN COLORADO.

(b) A FUND MANAGER SHALL NOT MAKE A LOAN TO A QUALIFIED BUSINESS OR QUALIFIED RURAL BUSINESS UNLESS THE BUSINESS HAS RECEIVED TWO WRITTEN LOAN REJECTION LETTERS FROM TWO DIFFERENT COMMERCIAL BANKS HEADQUARTERED OR CHARTERED IN COLORADO THAT MAKE SMALL BUSINESS LOANS, ONE OF WHICH SHALL BE A PREFERRED LENDER DESIGNATED BY THE FEDERAL SMALL BUSINESS

ADMINISTRATION. ANY SUCH LOAN BY A FUND MANAGER SHALL NOT BE MADE THROUGH OR IN CONNECTION WITH ANY GUARANTEED LOAN PROGRAM.

(11) (a) "QUALIFIED RURAL BUSINESS" MEANS A QUALIFIED BUSINESS THAT HAS ITS PRINCIPAL BUSINESS OPERATIONS IN ANY COUNTY, BUT NOT ANY CITY AND COUNTY, IN THIS STATE THAT, AS OF JUNE 9, 2001, HAS A POPULATION OF NOT MORE THAN ONE HUNDRED FIFTY THOUSAND PEOPLE AND, IF THE COUNTY'S POPULATION EXCEEDS TWENTY THOUSAND PEOPLE, THAT HAS A GROWTH RATE THAT DOES NOT EXCEED THE STATEWIDE AVERAGE FOR THE PERIOD OF 1990-2000 BY MORE THAN TWENTY-FIVE PERCENT AS DEFINED IN THE TWO MOST RECENT DECENNIAL CENSUSES. ADDITIONALLY, A QUALIFIED RURAL BUSINESS SHALL BE LOCATED IN AN AREA DESIGNATED AS AN ENTERPRISE ZONE PURSUANT TO ARTICLE 30 OF TITLE 39, C.R.S., UNLESS THE AUTHORITY WAIVES THIS REQUIREMENT.

(b) ANY BUSINESS THAT IS CLASSIFIED AS A QUALIFIED RURAL BUSINESS AT THE TIME OF THE FIRST QUALIFIED INVESTMENT IN THE BUSINESS BY A FUND MANAGER SHALL REMAIN CLASSIFIED AS A QUALIFIED RURAL BUSINESS AND MAY RECEIVE CONTINUING QUALIFIED INVESTMENTS FROM A VENTURE CAPITAL FUND. THE CONTINUING INVESTMENTS SHALL BE QUALIFIED INVESTMENTS EVEN THOUGH THE BUSINESS MAY NOT MEET THE DEFINITION OF A QUALIFIED RURAL BUSINESS AT THE TIME OF THE CONTINUING INVESTMENTS; EXCEPT THAT, TO REMAIN A QUALIFIED RURAL BUSINESS AND TO RECEIVE QUALIFIED INVESTMENTS, A QUALIFIED RURAL BUSINESS SHALL COMPLY WITH SUBPARAGRAPH (V) OF PARAGRAPH (a) OF SUBSECTION (8) OF THIS SECTION FOR AT LEAST FIVE YEARS AFTER AN INITIAL QUALIFIED INVESTMENT.

(12) "QUALIFIED TAXPAYER" MEANS AN INSURANCE COMPANY THAT HAS CONTRIBUTED CERTIFIED CAPITAL TO THE AUTHORITY AND RECEIVED A TAX CREDIT CERTIFICATE FROM THE AUTHORITY PURSUANT TO SECTION 24-46-204; EXCEPT THAT, UPON PAYMENT OF CERTIFIED CAPITAL BY A QUALIFIED TAXPAYER, THE QUALIFIED TAXPAYER MAY TRANSFER OR SELL ALL OR A PORTION OF ITS VENTURE CAPITAL TAX CREDITS TO ANOTHER INSURANCE COMPANY, IN WHICH CASE "QUALIFIED TAXPAYER" SHALL BE DEEMED TO REFER TO SUCH INSURANCE COMPANY. A TRANSFER OR SALE OF VENTURE CAPITAL TAX CREDITS BY A QUALIFIED TAXPAYER SHALL NOT AFFECT THE SCHEDULE FOR TAKING THE VENTURE CAPITAL TAX CREDITS AS PROVIDED IN THIS PART 2.

(13) "SEED AND EARLY-STAGE INVESTMENT" MEANS THE FIRST INVESTMENT FROM A PROFESSIONAL VENTURE CAPITAL FIRM TO A QUALIFIED BUSINESS. A SEED INVESTMENT IS MADE TO A QUALIFIED BUSINESS THAT HAS NOT YET FULLY ESTABLISHED COMMERCIAL OPERATIONS OR THAT INVOLVES CONTINUED RESEARCH AND PRODUCT DEVELOPMENT. AN EARLY-STAGE INVESTMENT IS MADE TO A QUALIFIED BUSINESS FOR PRODUCT DEVELOPMENT OR INITIAL MARKETING, MANUFACTURING, OR SALES ACTIVITIES.

(14) "VENTURE CAPITAL FUND" MEANS ONE OR MORE RURAL VENTURE CAPITAL FUNDS, ONE OR MORE DISTRESSED URBAN COMMUNITY VENTURE CAPITAL FUNDS, OR ONE OR MORE STATEWIDE VENTURE CAPITAL FUNDS AS DESCRIBED IN SECTION 24-46-203 (1), LOCATED OUTSIDE OF THE STATE TREASURY, CONTAINING CERTIFIED CAPITAL THAT IS MANAGED BY A FUND MANAGER TO MAKE QUALIFIED INVESTMENTS.

(15) "VENTURE CAPITAL TAX CREDIT" OR "TAX CREDIT" MEANS THE TAX CREDIT CREATED BY SECTION 24-46-204 THAT A QUALIFIED TAXPAYER MAY CLAIM PURSUANT TO THIS PART 2.

24-46-202. Venture capital authority - board - bonds - enterprise fund - distribution of proceeds. (1) (a) THERE IS HEREBY CREATED AS A SPECIAL PURPOSE AUTHORITY, AS DEFINED IN SECTION 24-77-102 (15), THE VENTURE CAPITAL AUTHORITY. THE AUTHORITY SHALL BE A BODY CORPORATE, A POLITICAL SUBDIVISION OF THE STATE, AND A PUBLIC INSTRUMENTALITY, AND ITS EXERCISE OF THE POWERS CONFERRED BY THIS PART 2 SHALL BE DEEMED AND HELD TO BE THE PERFORMANCE OF AN ESSENTIAL PUBLIC FUNCTION; EXCEPT THAT THE AUTHORITY SHALL NOT BE AN AGENCY OF STATE GOVERNMENT AND SHALL NOT BE SUBJECT TO ADMINISTRATIVE DIRECTION BY ANY DEPARTMENT, COMMISSION, BOARD, OR AGENCY OF THE STATE. THE AUTHORITY SHALL CONSTITUTE AN ENTERPRISE FOR THE PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION SO LONG AS IT RETAINS THE AUTHORITY TO ISSUE REVENUE BONDS AND RECEIVES LESS THAN TEN PERCENT OF ITS TOTAL ANNUAL REVENUES IN GRANTS, AS DEFINED IN SECTION 24-77-102 (7), FROM ALL COLORADO STATE AND LOCAL GOVERNMENTS COMBINED. THE AUTHORITY SHALL NOT BE A DISTRICT FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION.

(b) (I) THE GOVERNING BODY OF THE AUTHORITY SHALL BE A BOARD OF DIRECTORS CONSISTING OF NINE MEMBERS, OF WHOM FIVE SHALL BE APPOINTED BY THE GOVERNOR, TWO SHALL BE APPOINTED BY THE PRESIDENT OF THE SENATE, AND TWO SHALL BE APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES. BOARD MEMBERS SHALL BE RESIDENTS OF THIS STATE. BOARD MEMBERS SHALL HAVE EXPERIENCE IN VENTURE CAPITAL, INVESTMENT BANKING, INSTITUTIONAL INVESTMENT, FUND MANAGEMENT, OR BANKING. A BOARD MEMBER SHALL NOT HAVE A BUSINESS RELATIONSHIP WITH A CURRENT OR PROPOSED FUND MANAGER IN THE PREVIOUS THREE YEARS OR FOR AT LEAST THREE YEARS AFTER AN ALLOCATION OF CERTIFIED CAPITAL. EACH MEMBER SHALL SERVE UNTIL A SUCCESSOR HAS BEEN APPOINTED AND QUALIFIED. ANY MEMBER SHALL BE ELIGIBLE FOR REAPPOINTMENT. THE PERSON MAKING THE ORIGINAL APPOINTMENT SHALL FILL ANY VACANCY BY APPOINTMENT FOR THE REMAINDER OF AN UNEXPIRED TERM.

(II) (A) SUBJECT TO SUB-SUBPARAGRAPH (B) OF THIS SUBPARAGRAPH (II), THE MEMBERS OF THE BOARD SHALL SERVE FOUR-YEAR TERMS, EXPIRING ON MAY 5 OF EACH YEAR.

(B) THE SPEAKER AND THE PRESIDENT SHALL EACH APPOINT ONE MEMBER WITH AN INITIAL TERM OF TWO YEARS AND ONE MEMBER WITH AN INITIAL TERM OF THREE YEARS. OF THE MEMBERS APPOINTED BY THE GOVERNOR, TWO SHALL HAVE INITIAL TERMS OF ONE YEAR, TWO SHALL HAVE INITIAL TERMS OF TWO YEARS, AND ONE SHALL HAVE AN INITIAL TERM OF THREE YEARS.

(c) ANY MEMBER OF THE BOARD MAY BE REMOVED BY THE GOVERNOR FOR MISFEASANCE, MALFEASANCE, WILLFUL NEGLECT OF DUTY, OR OTHER CAUSE, AFTER NOTICE AND A PUBLIC HEARING, UNLESS THE NOTICE AND HEARING HAVE BEEN EXPRESSLY WAIVED IN WRITING.

(d) (I) THE BOARD SHALL ADOPT ITS OWN RULES OF PROCEDURE, SHALL ELECT A

CHAIR AND A VICE-CHAIR FROM ITS MEMBERSHIP, AND SHALL KEEP A RECORD OF ITS PROCEEDINGS. THE AUTHORITY MAY HIRE STAFF AS IT DEEMS NECESSARY OR CONVENIENT TO ADMINISTER THIS PART 2. THE OFFICE OF ECONOMIC DEVELOPMENT AND THE COLORADO ECONOMIC DEVELOPMENT COMMISSION SHALL COOPERATE WITH THE AUTHORITY AND ITS STAFF IN SUCH ADMINISTRATION.

(II) THE AUTHORITY SHALL MEET AT LEAST ONCE EACH QUARTER. MEMBERS SHALL SERVE WITHOUT COMPENSATION BUT SHALL BE ENTITLED TO REIMBURSEMENT FOR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES.

(2) (a) THE AUTHORITY MAY, BY RESOLUTION THAT MEETS THE REQUIREMENTS OF SUBSECTION (3) OF THIS SECTION, AUTHORIZE AND ISSUE REVENUE BONDS IN AN AMOUNT NOT TO EXCEED FIVE MILLION DOLLARS IN THE AGGREGATE FOR EXPENSES OF THE AUTHORITY. BONDS MAY BE ISSUED ONLY AFTER APPROVAL BY BOTH HOUSES OF THE GENERAL ASSEMBLY ACTING EITHER BY BILL OR JOINT RESOLUTION AND AFTER APPROVAL BY THE GOVERNOR IN ACCORDANCE WITH SECTION 39 OF ARTICLE V OF THE STATE CONSTITUTION. BONDS SHALL BE PAYABLE ONLY FROM THE ENTERPRISE FUND.

(b) ALL BONDS ISSUED BY THE AUTHORITY SHALL PROVIDE THAT:

(I) NO HOLDER OF BONDS MAY COMPEL THE STATE OR ANY SUBDIVISION THEREOF TO EXERCISE ITS APPROPRIATION OR TAXING POWER; AND

(II) THE BONDS DO NOT CONSTITUTE A DEBT OR FINANCIAL OBLIGATION OF THE STATE AND ARE PAYABLE ONLY FROM THE NET REVENUES ALLOCATED TO THE AUTHORITY FOR EXPENSES AS DESIGNATED IN THE BONDS.

(3) (a) ANY RESOLUTION AUTHORIZING THE ISSUANCE OF BONDS UNDER THIS SECTION SHALL STATE:

(I) THE DATE OF ISSUANCE OF THE BONDS;

(II) A MATURITY DATE OR DATES DURING A PERIOD NOT TO EXCEED TWENTY YEARS AFTER THE DATE OF ISSUANCE OF THE BONDS;

(III) THE INTEREST RATE OR RATES ON, AND THE DENOMINATION OR DENOMINATIONS OF, THE BONDS; AND

(IV) THE MEDIUM OF PAYMENT OF THE BONDS AND THE PLACE WHERE THE BONDS WILL BE PAID.

(b) ANY RESOLUTION AUTHORIZING THE ISSUANCE OF BONDS UNDER THIS SECTION MAY:

(I) STATE THAT THE BONDS ARE TO BE ISSUED IN ONE OR MORE SERIES;

(II) STATE A RANK OR PRIORITY OF THE BONDS; AND

(III) PROVIDE FOR REDEMPTION OF THE BONDS PRIOR TO MATURITY, WITH OR

WITHOUT PREMIUM.

(4) ANY BONDS ISSUED PURSUANT TO THE TERMS OF THIS SECTION MAY BE SOLD AT PUBLIC OR PRIVATE SALE. IF BONDS ARE TO BE SOLD AT A PUBLIC SALE, THE AUTHORITY SHALL ADVERTISE THE SALE IN ANY MANNER THE AUTHORITY DEEMS APPROPRIATE. ALL BONDS ISSUED PURSUANT TO THE TERMS OF THIS SECTION SHALL BE SOLD AT A PRICE NOT LESS THAN THE PAR VALUE THEREOF, TOGETHER WITH ALL ACCRUED INTEREST UP TO THE DATE OF DELIVERY.

(5) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, ALL BONDS ISSUED PURSUANT TO THIS SECTION ARE NEGOTIABLE.

(6) (a) A RESOLUTION PERTAINING TO ISSUANCE OF BONDS UNDER THIS SECTION MAY CONTAIN COVENANTS AS TO:

(I) THE PURPOSE TO WHICH THE PROCEEDS OF SALE OF THE BONDS MAY BE APPLIED, AND THE PERMISSIBLE USE AND DISPOSITION THEREOF;

(II) SUCH MATTERS AS ARE CUSTOMARY IN THE ISSUANCE OF REVENUE BONDS, INCLUDING, WITHOUT LIMITATION, THE ISSUANCE AND LIEN POSITION OF OTHER OR ADDITIONAL BONDS; AND

(III) BOOKS OF ACCOUNT AND THE INSPECTION AND AUDIT THEREOF.

(b) ANY RESOLUTION MADE PURSUANT TO THE TERMS OF THIS SECTION SHALL BE DEEMED A CONTRACT WITH THE HOLDERS OF THE BONDS, AND THE DUTIES OF THE AUTHORITY UNDER THE RESOLUTION SHALL BE ENFORCEABLE BY ANY APPROPRIATE ACTION IN A COURT HAVING JURISDICTION.

(7) BONDS ISSUED UNDER THIS SECTION AND BEARING THE SIGNATURES OF THE BOARD MEMBERS OF THE AUTHORITY IN OFFICE ON THE DATE OF THE SIGNING SHALL BE DEEMED VALID AND BINDING OBLIGATIONS REGARDLESS OF WHETHER, PRIOR TO DELIVERY AND PAYMENT, ANY OR ALL OF THE PERSONS WHOSE SIGNATURES APPEAR THEREON HAVE CEASED TO BE MEMBERS OF THE BOARD.

(8) (a) EXCEPT AS OTHERWISE PROVIDED IN THE RESOLUTION AUTHORIZING THE BONDS, ALL BONDS OF THE SAME ISSUE UNDER THIS SECTION SHALL HAVE A PRIOR AND PARAMOUNT LIEN ON THE NET REVENUES PLEDGED THEREFOR. THE AUTHORITY MAY PROVIDE FOR PREFERENTIAL SECURITY FOR ANY BONDS, BOTH PRINCIPAL AND INTEREST, TO BE ISSUED UNDER THIS SECTION TO THE EXTENT DEEMED FEASIBLE AND DESIRABLE BY THE AUTHORITY OVER ANY BONDS THAT MAY BE ISSUED THEREAFTER.

(b) BONDS OF THE SAME ISSUE OR SERIES ISSUED UNDER THIS SECTION SHALL BE EQUALLY AND RATABLY SECURED, WITHOUT PRIORITY BY REASON OF NUMBER, DATE, SALE, EXECUTION, OR DELIVERY, BY A LIEN ON THE NET REVENUE PLEDGED IN ACCORDANCE WITH THE TERMS OF THE RESOLUTION AUTHORIZING THE BONDS.

(9) THE AUTHORITY MAY ACCEPT GRANTS FROM ANY SOURCE AND SHALL DEPOSIT THE GRANTS IN THE ENTERPRISE FUND, WHICH FUND IS HEREBY CREATED IN THE AUTHORITY. THE ENTERPRISE FUND SHALL BE A REVOLVING FUND ADMINISTERED BY THE AUTHORITY AS A GOVERNMENT-OWNED BUSINESS THAT PROVIDES OVERSIGHT

CONCERNING THE INVESTMENT OF REVENUES IN THE ENTERPRISE FUND PURSUANT TO THIS PART 2. REVENUES EARNED ON THE INVESTMENT OR DEPOSIT OF MONEYS IN THE ENTERPRISE FUND SHALL BE CREDITED TO THE ENTERPRISE FUND.

(10) (a) THE AUTHORITY SHALL UTILIZE THE ENTERPRISE FUND:

(I) AS A REVOLVING, EVERGREEN FUND TO PROVIDE CONTINUED SEED AND EARLY-STAGE INVESTMENT CAPITAL TO QUALIFIED BUSINESSES AND QUALIFIED RURAL BUSINESSES, AND FOR THIS PURPOSE THE AUTHORITY SHALL TRANSFER REVENUES IN THE FUND TO ONE OR MORE VENTURE CAPITAL FUNDS FOR THE PURPOSE OF ENABLING A FUND MANAGER TO MAKE QUALIFIED INVESTMENTS; AND

(II) FOR ITS DIRECT AND INDIRECT EXPENSES IN ADMINISTERING THIS PART 2, INCLUDING REPAYMENT OF REVENUE BONDS.

(b) THE AUTHORITY SHALL DEPOSIT REVENUES FROM THE FOLLOWING SOURCES IN THE ENTERPRISE FUND:

(I) DISTRIBUTIONS OF AN AMOUNT EQUAL TO ONE HUNDRED PERCENT OF CERTIFIED CAPITAL PRIOR TO THE DISTRIBUTION OF ANY REMAINING PROCEEDS;

(II) DISTRIBUTIONS OF ALL REMAINING PROCEEDS ACCORDING TO THE AUTHORITY'S CONTRACT WITH EACH FUND MANAGER;

(III) FEES; AND

(IV) ASSESSED PENALTIES.

24-46-203. Venture capital funds - managers - qualified investments - contract - distributions. (1) THE AUTHORITY SHALL ESTABLISH PROCEDURES AND ADDITIONAL SELECTION CRITERIA FOR, AND SHALL CONDUCT, A COMPETITIVE PROCESS FOR THE SELECTION OF ONE OR MORE FUND MANAGERS TO ESTABLISH AND MANAGE ONE OR MORE RURAL VENTURE CAPITAL FUNDS AND TO ESTABLISH AND MANAGE ONE OR MORE STATEWIDE VENTURE CAPITAL FUNDS. THE AUTHORITY SHALL ESTABLISH AND PUBLICIZE THE DEADLINES FOR THE COMPETITIVE SELECTION PROCESS. THE AUTHORITY MAY ESTABLISH REASONABLE APPLICATION FEES. IN CONDUCTING THE COMPETITIVE PROCESS, THE AUTHORITY SHALL NOT BE SUBJECT TO THE REQUIREMENTS OF THE "PROCUREMENT CODE", ARTICLES 101 TO 112 OF THIS TITLE. THE AUTHORITY SHALL SELECT FUND MANAGERS BY DECEMBER 31, 2004, AND THEREAFTER AS NECESSARY. WHEN SELECTING A FUND MANAGER, THE AUTHORITY SHALL PLACE A SIGNIFICANT EMPHASIS ON:

(a) THE TOTAL AMOUNT OF VENTURE CAPITAL MANAGED BY THE APPLICANT IN COLORADO AND ELSEWHERE;

(b) THE APPLICANT'S HISTORICAL RETURN ON INVESTMENT, WITH AN EMPHASIS ON RETURNS FROM SEED AND EARLY STAGE INVESTMENTS;

(c) THE PERCENTAGE OF PROCEEDS TO BE RETAINED BY THE APPLICANT IN COMPARISON WITH THE PERCENTAGE OF PROCEEDS TO BE DISTRIBUTED TO THE ENTERPRISE FUND.

(2) THE AUTHORITY SHALL ALLOCATE:

(a) TWENTY-FIVE PERCENT OF CERTIFIED CAPITAL TO ONE OR MORE FUND MANAGERS FOR THE ESTABLISHMENT AND MANAGEMENT OF ONE OR MORE RURAL VENTURE CAPITAL FUNDS FOR THE PURPOSE OF MAKING QUALIFIED INVESTMENTS IN QUALIFIED RURAL BUSINESSES;

(b) FIFTY PERCENT OF CERTIFIED CAPITAL TO ONE OR MORE FUND MANAGERS FOR THE ESTABLISHMENT AND MANAGEMENT OF ONE OR MORE STATEWIDE VENTURE CAPITAL FUNDS FOR THE PURPOSE OF MAKING QUALIFIED INVESTMENTS IN OTHER QUALIFIED BUSINESSES; AND

(c) TWENTY-FIVE PERCENT OF CERTIFIED CAPITAL TO ONE OR MORE FUND MANAGERS FOR THE ESTABLISHMENT AND MANAGEMENT OF ONE OR MORE DISTRESSED URBAN COMMUNITY VENTURE CAPITAL FUNDS FOR THE PURPOSE OF MAKING QUALIFIED INVESTMENTS IN QUALIFIED BUSINESSES WHOSE PRINCIPAL BUSINESS OPERATIONS ARE LOCATED IN A DISTRESSED URBAN COMMUNITY.

(3) AS SOON AS PRACTICABLE AFTER THE SELECTION DATE, THE AUTHORITY AND EACH FUND MANAGER SHALL ENTER INTO A CONTRACT WHEREBY THE FUND MANAGER SHALL ESTABLISH AND MANAGE THE VENTURE CAPITAL FUNDS PURSUANT TO THIS PART 2 AND SHALL COMPLY WITH OTHER REQUIREMENTS ESTABLISHED BY THE AUTHORITY. THE CONTRACT SHALL SPECIFY THAT THE FUND MANAGER SHALL MAKE QUALIFIED INVESTMENTS ACCORDING TO THE FOLLOWING SCHEDULE:

(a) BY JANUARY 1, 2006, THE FUND MANAGER SHALL HAVE MADE AT LEAST ONE QUALIFIED INVESTMENT.

(b) WITHIN THE PERIOD ENDING THREE YEARS AFTER AN ALLOCATION DATE, A FUND MANAGER SHALL HAVE MADE QUALIFIED INVESTMENTS CUMULATIVELY EQUAL TO AT LEAST THIRTY PERCENT OF THE CERTIFIED CAPITAL ALLOCATED TO IT ON SUCH ALLOCATION DATE.

(c) WITHIN THE PERIOD ENDING FIVE YEARS AFTER AN ALLOCATION DATE, A FUND MANAGER SHALL HAVE MADE QUALIFIED INVESTMENTS CUMULATIVELY EQUAL TO AT LEAST FIFTY PERCENT OF THE CERTIFIED CAPITAL ALLOCATED TO IT ON SUCH ALLOCATION DATE.

(d) WITHIN THE PERIOD ENDING TEN YEARS AFTER AN ALLOCATION DATE, A FUND MANAGER SHALL HAVE MADE QUALIFIED INVESTMENTS CUMULATIVELY EQUAL TO AT LEAST ONE HUNDRED PERCENT OF THE CERTIFIED CAPITAL ALLOCATED TO IT ON SUCH ALLOCATION DATE.

(4) A FUND MANAGER MAY, BEFORE MAKING A PROPOSED QUALIFIED INVESTMENT IN A SPECIFIC BUSINESS, REQUEST FROM THE AUTHORITY A WRITTEN OPINION THAT THE BUSINESS IN WHICH IT PROPOSES TO INVEST IS LOCATED IN A DISTRESSED URBAN COMMUNITY OR SHOULD BE CONSIDERED A QUALIFIED BUSINESS OR QUALIFIED RURAL BUSINESS, AS APPLICABLE. UPON RECEIVING A REQUEST, THE AUTHORITY SHALL HAVE THIRTY WORKING DAYS TO DETERMINE WHETHER THE BUSINESS IS LOCATED IN A DISTRESSED URBAN COMMUNITY OR THE BUSINESS MEETS THE DEFINITION OF A QUALIFIED BUSINESS OR QUALIFIED RURAL BUSINESS, AS APPLICABLE, AND NOTIFY THE

FUND MANAGER OF ITS DETERMINATION WITH AN EXPLANATION OF THE DETERMINATION. IF THE AUTHORITY FAILS TO NOTIFY THE FUND MANAGER OF ITS DETERMINATION WITHIN THIRTY WORKING DAYS, THE BUSINESS IN WHICH THE FUND MANAGER PROPOSES TO INVEST SHALL BE DEEMED TO BE LOCATED IN A DISTRESSED URBAN COMMUNITY OR TO BE A QUALIFIED BUSINESS OR QUALIFIED RURAL BUSINESS, AS APPLICABLE.

(5) A FUND MANAGER SHALL INVEST ALL CERTIFIED CAPITAL NOT CURRENTLY INVESTED IN QUALIFIED INVESTMENTS IN:

(a) CASH THAT IS DEPOSITED IN A FEDERALLY INSURED FINANCIAL INSTITUTION;

(b) CERTIFICATES OF DEPOSIT IN A FEDERALLY INSURED FINANCIAL INSTITUTION;

(c) INVESTMENT SECURITIES THAT ARE OBLIGATIONS OF THE UNITED STATES, ITS AGENCIES, OR INSTRUMENTALITIES OR OBLIGATIONS THAT ARE GUARANTEED FULLY AS TO PRINCIPAL AND INTEREST BY THE UNITED STATES;

(d) DEBT INSTRUMENTS RATED AT LEAST "AA" OR ITS EQUIVALENT BY A NATIONALLY RECOGNIZED CREDIT RATING ORGANIZATION, OR ISSUED BY, OR GUARANTEED WITH RESPECT TO PAYMENT BY, AN ENTITY WHOSE UNSECURED INDEBTEDNESS IS RATED AT LEAST "AA" OR ITS EQUIVALENT BY A NATIONALLY RECOGNIZED CREDIT RATING ORGANIZATION, AND THAT ARE NOT SUBORDINATED TO OTHER UNSECURED INDEBTEDNESS OF THE ISSUER OR THE GUARANTOR, AS THE CASE MAY BE;

(e) OBLIGATIONS OF THIS STATE, ANY MUNICIPALITY IN THIS STATE, OR ANY POLITICAL SUBDIVISION THEREOF;

(f) INTERESTS IN MONEY MARKET FUNDS, THE PORTFOLIOS OF WHICH ARE LIMITED TO CASH AND OBLIGATIONS DESCRIBED IN THIS SUBSECTION (5); OR

(g) ANY OTHER INVESTMENTS APPROVED IN ADVANCE AND IN WRITING BY THE AUTHORITY.

(6) (a) THE AUTHORITY'S CONTRACT WITH A FUND MANAGER SHALL STATE THE TERMS GOVERNING THE DISTRIBUTION, OTHER THAN A QUALIFIED DISTRIBUTION, OF CERTIFIED CAPITAL AND PROCEEDS. UNLESS AUTHORIZED BY ITS CONTRACT WITH THE AUTHORITY AND UNTIL IT HAS MADE THE DISTRIBUTION SPECIFIED IN PARAGRAPH (b) OF THIS SUBSECTION (6), A FUND MANAGER SHALL NOT MAKE ANY DISTRIBUTIONS FROM:

(I) CERTIFIED CAPITAL OTHER THAN QUALIFIED DISTRIBUTIONS; OR

(II) PROCEEDS.

(b) (I) THE FUND MANAGER SHALL DISTRIBUTE TO THE AUTHORITY AN AMOUNT EQUAL TO ONE HUNDRED PERCENT OF CERTIFIED CAPITAL ALLOCATED TO VENTURE CAPITAL FUNDS MANAGED BY THE FUND MANAGER PRIOR TO MAKING DISTRIBUTIONS PURSUANT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH (b). THE AUTHORITY SHALL DEPOSIT THE DISTRIBUTION IN THE ENTERPRISE FUND.

(II) AFTER THE DISTRIBUTION MADE PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) HAS OCCURRED, THE FUND MANAGER SHALL DISTRIBUTE ALL REMAINING CERTIFIED CAPITAL AND PROCEEDS ON A PRO-RATED BASIS BETWEEN THE AUTHORITY AND THE FUND MANAGER AS NEGOTIATED IN THE CONTRACT BY THE AUTHORITY AND AS CERTIFIED CAPITAL AND PROCEEDS BECOME AVAILABLE. THE AUTHORITY SHALL DEPOSIT THE DISTRIBUTIONS TO THE ENTERPRISE FUND.

(7) (a) IN ADDITION TO OTHER ITEMS AS SPECIFIED BY THE AUTHORITY, ON OR BEFORE JANUARY 31 OF EACH YEAR, EACH FUND MANAGER SHALL REPORT THE FOLLOWING TO THE AUTHORITY:

(I) THE BALANCE OF CERTIFIED CAPITAL AT THE END OF THE IMMEDIATELY PRECEDING CALENDAR YEAR FOR EACH VENTURE CAPITAL FUND MANAGED BY THE FUND MANAGER;

(II) THE NUMBER OF JOBS CREATED IN COLORADO FROM QUALIFIED INVESTMENTS MADE BY THE FUND MANAGER AND THE AMOUNT OF PROCEEDS, IF ANY, RECEIVED BY THE FUND MANAGER FROM THE INVESTMENTS;

(III) THE AMOUNT OF QUALIFIED DISTRIBUTIONS MADE BY THE FUND MANAGER FROM CERTIFIED CAPITAL DURING THE IMMEDIATELY PRECEDING CALENDAR YEAR; AND

(IV) ALL QUALIFIED INVESTMENTS MADE BY THE FUND MANAGER FROM CERTIFIED CAPITAL DURING THE IMMEDIATELY PRECEDING CALENDAR YEAR.

(b) ANNUALLY, AND WITHIN NINETY DAYS AFTER THE CLOSE OF ITS FISCAL YEAR, EACH FUND MANAGER SHALL PROVIDE TO THE AUTHORITY AN AUDITED FINANCIAL STATEMENT THAT INCLUDES THE OPINION OF AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT. THE AUDIT SHALL ADDRESS THE METHODS OF OPERATION AND CONDUCT OF THE BUSINESS OF THE FUND MANAGER TO DETERMINE WHETHER THE FUND MANAGER IS COMPLYING WITH THIS PART 2 AND THE AUTHORITY'S CONTRACT AND WHETHER THE CERTIFIED CAPITAL RECEIVED BY THE FUND MANAGER HAS BEEN INVESTED AS REQUIRED UNDER THIS PART 2 AND THE AUTHORITY'S CONTRACT.

(8) VENTURE CAPITAL FUND OFFERING MATERIALS SHALL INCLUDE THE FOLLOWING STATEMENT:

"THE STATE OF COLORADO DOES NOT ENDORSE THE QUALITY OF MANAGEMENT OR THE POTENTIAL FOR EARNINGS OF SUCH FUND AND IS NOT LIABLE FOR DAMAGES OR LOSSES TO ANY INVESTOR IN THE FUND OR ANY OTHER ENTITY. SELECTION BY THE COLORADO VENTURE CAPITAL AUTHORITY TO PARTICIPATE IN THIS PROGRAM DOES NOT CONSTITUTE A RECOMMENDATION OR ENDORSEMENT OF THE VENTURE CAPITAL FUND OR ITS INVESTMENTS BY THE COLORADO VENTURE CAPITAL AUTHORITY."

(9) IF A FUND MANAGER VIOLATES ANY APPLICABLE PROVISION OF THIS PART 2 OR ANY MATERIAL PROVISION OF THE AUTHORITY'S CONTRACT WITH THE FUND MANAGER, THE AUTHORITY MAY REQUIRE THE FUND MANAGER TO MAKE A PAYMENT IN AN AMOUNT UP TO THE AMOUNT OF CERTIFIED CAPITAL RECEIVED BY THE FUND MANAGER IN ADDITION TO PENALTIES AS DETERMINED BY THE AUTHORITY. THE PAYMENTS

SHALL BE DEPOSITED IN THE ENTERPRISE FUND. THE AUTHORITY MAY USE ADDITIONAL REMEDIES, AS SPECIFIED IN ITS CONTRACT WITH A FUND MANAGER, TO ENSURE APPROPRIATE OVERSIGHT OF THE VENTURE CAPITAL PROGRAM. THE AUTHORITY SHALL CONDUCT AN ANNUAL REVIEW OF EACH FUND MANAGER TO DETERMINE ITS COMPLIANCE WITH THE REQUIREMENTS OF THIS PART 2 AND ITS CONTRACT WITH THE AUTHORITY.

24-46-204. Venture capital tax credits - contributions to authority - report.

(1) FOR TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2005, BUT NO LATER THAN JANUARY 1, 2014, AND SUBJECT TO THE REQUIREMENTS AND LIMITATIONS OF THIS SECTION, THERE SHALL BE ALLOWED TO ANY QUALIFIED TAXPAYER A VENTURE CAPITAL TAX CREDIT TO BE USED AGAINST THE TAXPAYER'S PREMIUM TAX LIABILITY. THE AUTHORITY SHALL ISSUE TAX CREDIT CERTIFICATES TO QUALIFIED TAXPAYERS WITH A TOTAL VALUE OF FIFTY MILLION DOLLARS TO BE TAKEN BY ONE OR MORE QUALIFIED TAXPAYERS AT THE RATE OF UP TO FIVE MILLION DOLLARS PER YEAR FOR EACH OF THE CALENDAR YEARS FROM 2005 THROUGH 2014; EXCEPT THAT IF H.B. 04-1206 IS ENACTED AT THE SECOND REGULAR SESSION OF THE SIXTY-FOURTH GENERAL ASSEMBLY, BECOMES LAW, AND IS SUBSEQUENTLY DECLARED TO BE UNCONSTITUTIONAL BY A FINAL JUDGMENT THAT INVALIDATES THE TAX CREDITS ENACTED BY SUCH BILL, THE AUTHORITY SHALL ISSUE TAX CREDIT CERTIFICATES TO QUALIFIED TAXPAYERS WITH A TOTAL VALUE OF ONE HUNDRED MILLION DOLLARS TO BE TAKEN BY ONE OR MORE QUALIFIED TAXPAYERS AT THE RATE OF UP TO TEN MILLION DOLLARS PER YEAR FOR EACH OF THE REMAINING CALENDAR YEARS THROUGH 2014. A QUALIFIED TAXPAYER SHALL SUBMIT THE TAX CREDIT CERTIFICATE WITH THE TAXPAYER'S TAX RETURN.

(2) UPON COMPLETION OF THE AUTHORITY'S COMPETITIVE SELECTION PROCESS FOR FUND MANAGERS PURSUANT TO SECTION 24-46-203, BUT NO EARLIER THAN JANUARY 31, 2004, AND NO LATER THAN DECEMBER 1 OF EACH YEAR FROM 2005 UNTIL 2014, THE AUTHORITY SHALL ISSUE A TAX CREDIT CERTIFICATE TO A QUALIFIED TAXPAYER PURSUANT TO SUBSECTION (5) OF THIS SECTION AND SHALL ALLOCATE CERTIFIED CAPITAL CONTRIBUTED TO THE AUTHORITY BY THE QUALIFIED TAXPAYER TO ONE OR MORE FUND MANAGERS SELECTED BY THE AUTHORITY IN ACCORDANCE WITH SECTION 24-46-203 (2).

(3) IF THE AMOUNT OF THE TAX CREDIT CLAIMED BY A QUALIFIED TAXPAYER EXCEEDS THE AMOUNT DUE ON ITS PREMIUM TAX LIABILITY IN THE TAX YEAR FOR WHICH THE TAX CREDIT IS BEING CLAIMED, THE AMOUNT OF THE TAX CREDIT NOT USED TO OFFSET TAXES MAY BE CARRIED FORWARD FOR UP TO TEN YEARS AS TAX CREDITS AGAINST THE QUALIFIED TAXPAYER'S SUBSEQUENT YEARS' PREMIUM TAX LIABILITY.

(4) A QUALIFIED TAXPAYER CLAIMING A TAX CREDIT AGAINST PREMIUM TAX LIABILITY EARNED THROUGH A CONTRIBUTION OF CERTIFIED CAPITAL TO THE AUTHORITY SHALL NOT BE REQUIRED TO PAY ANY ADDITIONAL OR RETALIATORY TAX AS A RESULT OF CLAIMING THE CREDIT.

(5) (a) AN INSURANCE COMPANY SHALL BECOME A QUALIFIED TAXPAYER IF ALL OF THE CONDITIONS OF THE TAX CREDIT CERTIFICATE AND THE FOLLOWING CONDITIONS ARE MET:

(I) PURSUANT TO A FORM ESTABLISHED BY THE AUTHORITY, THE INSURANCE COMPANY SHALL MAKE A TIMELY AND IRREVOCABLE OFFER, CONTINGENT ONLY UPON THE AUTHORITY'S ISSUANCE TO THE INSURANCE COMPANY OF A TAX CREDIT CERTIFICATE, TO MAKE A SPECIFIED CONTRIBUTION OF CERTIFIED CAPITAL TO THE AUTHORITY ON DATES SPECIFIED BY THE AUTHORITY. THE OFFER SHALL INCLUDE THE REQUESTED AMOUNT OF TAX CREDITS, THE YEAR FOR WHICH THE TAX CREDITS ARE REQUESTED, THE INSURANCE COMPANY'S SPECIFIED CONTRIBUTION FOR EACH TAX CREDIT DOLLAR REQUESTED, WHICH CONTRIBUTION SHALL BE NO LESS THAN EIGHTY PERCENT OF THE REQUESTED AMOUNT OF TAX CREDITS, AND ANY OTHER INFORMATION REQUIRED BY THE AUTHORITY.

(II) THE AUTHORITY SHALL ISSUE A TAX CREDIT CERTIFICATE TO THE INSURANCE COMPANY. THE TAX CREDIT CERTIFICATE SHALL STATE THE DATE BY WHICH CASH CONTRIBUTIONS SHALL BE MADE BY THE QUALIFIED TAXPAYER, THE DATE BY WHICH TAX CREDITS SHALL BE AVAILABLE FOR USE BY THE QUALIFIED TAXPAYER, PENALTIES AND ANY OTHER REMEDIES FOR NONCOMPLIANCE, AND ANY OTHER REQUIREMENTS DEEMED NECESSARY BY THE AUTHORITY AS A CONDITION OF ISSUING THE TAX CREDIT CERTIFICATE.

(III) PURSUANT TO SUBSECTION (7) OF THIS SECTION, THE INSURANCE COMPANY TIMELY MAKES THE CONTRIBUTION OF CERTIFIED CAPITAL TO THE AUTHORITY SPECIFIED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (a).

(b) THE AUTHORITY SHALL ESTABLISH AND PUBLICIZE TO INSURANCE COMPANIES:

(I) DEADLINES FOR SUBMITTING IRREVOCABLE OFFERS FOR CONTRIBUTIONS AND FOR ISSUING TAX CREDIT CERTIFICATES;

(II) FORMS AND REQUIREMENTS FOR OFFERS AND THE CONTENT REQUIREMENTS OF SUCH OFFERS; AND

(III) ANY OTHER REQUIREMENT DETERMINED TO BE NECESSARY BY THE AUTHORITY.

(c) (I) A TAX CREDIT CERTIFICATE SHALL SPECIFY:

(A) AN AMOUNT OF MONEY THAT A QUALIFIED TAXPAYER MAY CLAIM AS A TAX CREDIT PURSUANT TO THIS SECTION;

(B) THE AMOUNT OF CERTIFIED CAPITAL THAT THE QUALIFIED TAXPAYER HAS CONTRIBUTED OR WILL CONTRIBUTE BY THE DATES SPECIFIED IN THE TAX CREDIT CERTIFICATE;

(C) THE CALENDAR YEAR IN WHICH THE TAX CREDITS MAY BE USED AGAINST THE QUALIFIED TAXPAYER'S PREMIUM TAX LIABILITY;

(D) PENALTIES AND REMEDIES IN THE EVENT OF NONCOMPLIANCE BY THE QUALIFIED TAXPAYER; AND

(E) OTHER CONDITIONS DEEMED NECESSARY BY THE AUTHORITY.

(II) THE AUTHORITY SHALL CONTINUE TO ISSUE TAX CREDIT CERTIFICATES IN THE ORDER OF THE INSURANCE COMPANIES THAT HAVE OFFERED TO CONTRIBUTE THE NEXT HIGHEST VALUE PER TAX CREDIT DOLLAR REQUESTED UNTIL THE AUTHORITY HAS ISSUED FIVE MILLION DOLLARS OF TAX CREDIT CERTIFICATES PER YEAR, OR IF H.B. 04-1206 IS ENACTED AT THE SECOND REGULAR SESSION OF THE SIXTY-FOURTH GENERAL ASSEMBLY, BECOMES LAW, AND IS SUBSEQUENTLY DECLARED TO BE UNCONSTITUTIONAL, UNTIL THE AUTHORITY HAS ISSUED TEN MILLION DOLLARS OF TAX CREDIT CERTIFICATES PER YEAR; EXCEPT THAT THE AUTHORITY MAY ISSUE TAX CREDIT CERTIFICATES ON AN ANNUAL BASIS, A MULTI-YEAR BASIS, OR PERIODICALLY AS IT DEEMS NECESSARY.

(6) ON OR BEFORE JANUARY 31, 2006, AND ON OR BEFORE EACH SUCCEEDING JANUARY 31 UNTIL JANUARY 31, 2015, THE AUTHORITY SHALL PROVIDE A REPORT TO THE DIVISION OF INSURANCE IN THE DEPARTMENT OF REGULATORY AGENCIES. THE REPORT SHALL IDENTIFY EACH QUALIFIED TAXPAYER FOR THE TAX YEAR THAT ENDED DURING THE PRIOR CALENDAR YEAR BY NAME AND IDENTIFYING NUMBER ISSUED BY THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS, OR ANY ANALOGOUS SUCCESSOR ORGANIZATION, AND SHALL LIST THE AMOUNT OF THE TAX CREDITS ALLOWED TO THE QUALIFIED TAXPAYER.

(7) (a) TO BECOME A QUALIFIED TAXPAYER, AN INSURANCE COMPANY SHALL PAY THE SPECIFIED AMOUNT OF CERTIFIED CAPITAL TO THE AUTHORITY WHEN DUE.

(b) (I) IF AN INSURANCE COMPANY FAILS TO MAKE A PAYMENT OF CERTIFIED CAPITAL TO THE AUTHORITY WHEN DUE, THE AUTHORITY SHALL PROVIDE THE INSURANCE COMPANY WITH A NOTICE BY CERTIFIED MAIL THAT THE INSURANCE COMPANY HAS FIFTEEN WORKING DAYS TO CURE THE DEFECT. THE FIFTEEN-DAY PERIOD SHALL BEGIN ON THE DATE THE NOTICE IS POSTMARKED.

(II) FAILURE BY AN INSURANCE COMPANY TO MAKE THE PAYMENT OF CERTIFIED CAPITAL BY THE END OF THE FIFTEENTH WORKING DAY SHALL RESULT IN AN IMMEDIATE FORFEITURE OF ANY RIGHT TO CLAIM THE TAX CREDITS. THE AUTHORITY SHALL BE AUTHORIZED TO REALLOCATE SUCH TAX CREDITS TO OTHER QUALIFIED TAXPAYERS AS DEEMED NECESSARY BY THE AUTHORITY. REALLOCATION SHALL NOT DIMINISH THE AUTHORITY'S ABILITY TO USE PENALTIES AND REMEDIES AS STATED IN THE TAX CERTIFICATE.

(III) THE AUTHORITY SHALL ASSESS PENALTIES AGAINST A QUALIFIED TAXPAYER THAT FAILS TO MAKE THE PAYMENT OF CERTIFIED CAPITAL BY THE END OF THE FIFTEENTH WORKING DAY AS STATED IN THE TAX CREDIT CERTIFICATE AND MAY PURSUE OTHER REMEDIES AND ACTIONS AS STATED IN THE TAX CERTIFICATE.

24-46-205. Administrative expenses. ALL DIRECT AND INDIRECT EXPENDITURES INCURRED BY THE AUTHORITY IN CARRYING OUT THE RESPONSIBILITIES ASSIGNED IN THIS PART 2 SHALL BE PAID FROM THE ENTERPRISE FUND WITHOUT THE NECESSITY OF AN APPROPRIATION BY THE GENERAL ASSEMBLY.

24-46-206. Office - report. THE OFFICE OF ECONOMIC DEVELOPMENT SHALL ASSIST THE AUTHORITY IN ADMINISTERING THIS PART 2. THE AUTHORITY SHALL SUBMIT A REPORT TO THE STATE AUDITOR ON FEBRUARY 1 OF EACH YEAR REGARDING THE RESULTS OF THE IMPLEMENTATION OF THIS PART 2. THE STATE AUDITOR SHALL

AUDIT THE IMPLEMENTATION OF THIS PART 2 WITHIN THREE YEARS AFTER THE EFFECTIVE DATE OF THIS ACT AND SUBMIT A REPORT OF THE AUDIT TO THE LEGISLATIVE AUDIT COMMITTEE.

24-46-207. Conflict of interest. NO MEMBER OR EMPLOYEE OF THE EXECUTIVE BRANCH SHALL BECOME AN OFFICER, DIRECTOR, EMPLOYEE, OR CONSULTANT OF OR RECEIVE ANY COMPENSATION FROM THE AUTHORITY OR A FUND MANAGER EITHER DURING THE TERM OF THE MEMBER OR EMPLOYEE'S EMPLOYMENT WITH THE EXECUTIVE BRANCH OR FOR SIX YEARS AFTER SUCH TERM ENDS.

SECTION 9. 24-46-105 (1) and (2) and the introductory portion to 24-46-105 (2.5) (a), Colorado Revised Statutes, are amended to read:

24-46-105. Colorado economic development fund - creation. (1) There is hereby created a fund to be known as the Colorado economic development fund, referred to in this ~~article~~ PART 1 as the "fund", which shall be administered by the commission and which shall consist of all moneys ~~which~~ THAT may be available to it.

(2) The moneys in the fund shall be subject to annual appropriation by the general assembly, except as provided in subsection (2.5) of this section, for the purposes of this ~~article~~ PART 1. Any moneys not expended or encumbered from any appropriation at the end of any fiscal year shall remain available for expenditure in the next fiscal year without further appropriation. Any interest earned on the investment or deposit of moneys in the fund shall not be credited to the general fund of the state but shall instead be credited to the revolving account created in subsection (2.5) of this section. Contributions of money, property, or services may be received from any state agency, county, municipality, federal agency, person, or corporation for use in carrying out the purposes of this ~~article~~ PART 1.

(2.5) (a) The moneys in the fund may be used by the commission to make grants or loans to both public and private persons and entities for use in carrying out the purposes of this ~~article~~ PART 1, subject to the provisions of paragraph (b) of this subsection (2.5) and subsection (3) of this section. In determining whether to make a grant or loan, the commission shall consider each of the following guidelines:

SECTION 10. 24-46-106, Colorado Revised Statutes, is amended to read:

24-46-106. Repeal of part. This ~~article~~ PART 1 is repealed, effective July 1, 2006.

SECTION 11. Applicability. This act shall apply to contributions, investments, and distributions of certified capital occurring on or after the effective date of this act.

SECTION 12. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: March 4, 2004